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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/853,614	05/14/2001	Shiroshi Miyazaki	0239-0643P	6710
2392	7990	01/23/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			FISCHER, JUSTIN R.	
			ART UNIT	PAPER NUMBER
			1733	

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/853,614

Applicant(s)

MIYAZAKI ET AL.

Examiner

Justin R Fischer

Art Unit

1733

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 31 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee), or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the first Office action, or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 8 and 13Claim(s) withdrawn from consideration: 9-12, 14 and 15

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Continuation of 5: Applicant contends that Takahashi teaches the use of an aliphatic polyketone fiber in a carcass ply layer but fails to suggest the use of a polyketone fiber in a band ply. However, as set forth in Paper Number 3, Paragraph 3 and Paper Number 7, Paragraph 5, Takahashi (Paragraph 46) positively suggests the use of aliphatic polyketone fiber cords in an outermost band ply or zero degree cap layer. In particular, the lone example of Takahashi (Example 15) in which the band ply is formed of such cords has the best high-speed durability, which is the same benefit desired by the claimed invention. Thus, contrary to applicant's argument, Takahashi does describe the use of aliphatic polyketone fiber cords in an outermost band ply and further, the reference recognizes the improvement in high speed durability as a result of such a construction in an analogous manner to the claimed invention.

Regarding the results of Table 2, these results are not found to be persuasive in providing a conclusive showing of unexpected results. As stated above, Table 2 of Takahashi (Example 15) specifically attributes an increase in high-speed durability to the use of aliphatic polyketone fiber cords in the outermost band ply- this is the same benefit recognized by applicant in Table 1. It is further noted that Takahashi describes the aliphatic polyketone fiber cords as high modulus, lightweight, and economical in comparison to commonly used tire cord materials (Paragraphs 9-12)- these are the same benefits outlined by applicant in the original disclosure and the After Final Amendment (Page 12, Paragraph 4). As to the results of Table 2 of the claimed invention, these results are not found to be commensurate in scope with the claimed invention. In particular, none of the inventive tire constructions are formed with the following design as required by the claimed invention: carcass (polyester), belt (steel), band ply (aliphatic polyketone fiber cord). Also, as mentioned above, the benefits of cost reduction, weight reduction, and improved high-speed durability are recognized by Takahashi.

Lastly, regarding the JIS measuring standard, it is believed that each of the properties in Takahashi is measured in an analogous manner to the claimed invention.


Justin Fischer

January 20, 2004


JEFF H. AFTERGUT
PRIMARY EXAMINER
GROUP 1300